

REMARKS

Claims 1-5 and 10-12 were rejected and remain pending in the instant application. Claims 1-3, 10, and 12 are amended herein. The amendments are fully supported by the original disclosure, and no new matter is added. Reconsideration of the rejections is respectfully requested in light of the amendments and the remarks below.

Preliminary Remarks

Applicants thank the Examiner for discussing the pending claims with Applicants' representative Jo Ann Schmidt in a telephonic interview on March 10, 2011.

Claim Rejections – 35 USC § 103

Claims 1-5 and 10-12 were rejected under 35 USC § 103(a) as allegedly being unpatentable over US Patent No. 6,820,259 issued to Kawamata *et al.* (hereinafter “Kawamata”), in view of US Publication No. 2003/0022657 issued to Herschberg *et al.* (hereinafter “Herschberg”).

While Applicants do not concede that the cited combination teaches or suggests the features of the claims, independent claims 1 and 10 are nonetheless amended as indicated above in order to advance prosecution.

Amended claim 1 recites, *inter alia*:

“determine that a first group of the available discretionary updates has not already been installed on the wireless computing apparatus, and is applicable to the software currently installed on the wireless computing apparatus, wherein one or more of the available discretionary updates of the first group belongs to a first update category and another one or more of the available discretionary updates of the first group belongs to a second update category different from the first update category;

determine that a second group of the available discretionary updates has already been installed on the wireless computing apparatus, or is inapplicable to the software currently installed on the wireless computing apparatus;

based on results of the determinations, depict representations of the available discretionary updates of the first group, but not of the second group, in a selectable manner on a display of the wireless computing apparatus; and

automatically select the one or more depicted available discretionary updates belonging to the first update category, but not the one or more depicted available discretionary updates belonging to the second update category, to enable user selection of at least one of the one or more depicted available discretionary updates belonging to the second update category.

These amendments are supported in at least the following passages and figures: pg. 4, lines 23-30 (describing update categories including mandatory updates, critical updates, and normal updates), pg. 9, lines 20-25 (describing relevant available updates; client device depicts any relevant available updates, which are non-mandatory updates such as critical updates and other updates) and lines 30-31 (relevant available updates are selected on the client device; relevant critical updates may be automatically selected while other updates may be selected by a user using user interface); Fig. 2 (display 240); Fig. 5 (e.g., 525, 530); Fig. 6 (e.g., 630, 640, 645).

The cited combination of Kawamata and Herschberg fails to teach or suggest at least these features of claim 1 as amended.

In particular, the cited combination fails to teach or suggest “based on results of the determinations,” [of the first and second groups of available discretionary updates] “depict representations of the available discretionary updates of the first group, but not of the second group, in a selectable manner on a display of the wireless computing apparatus” and “automatically select the one or more depicted available discretionary updates belonging to the first update category (of the first group), but not the one or more depicted available discretionary updates belonging to the second update category (of the first group), to enable user selection of at least one of the one or more depicted available discretionary updates belonging to the second update category (emphasis added).”

As conceded on page 3 of the Final Office Action, Kawamata fails to disclose the “determine” and “depict” recitations of claim 1. Herschberg **teaches away** from the “determine” and “depict” recitations, because the user device of Herschberg receives from the server a list of non-mandatory updates that are pre-selected by the server for that device (see e.g., paragraphs [0180]-[0181]). Thus, the user device of Herschberg does not receive

the “second group of available discretionary updates” which are updates that have “already been installed on the wireless computing apparatus, or is inapplicable to the software currently installed on the wireless computing apparatus” as recited in claim 1. Further, whether alone or in combination, Herschberg and Kawamata fail to teach or suggest “. . . automatically select the one or more depicted available discretionary updates belonging to the *first* update category” [of the first group], “but not the one or more depicted available discretionary updates belonging to the *second* update category” [of the first group] which is “different from the first update category . . .” as recited in claim 1.

For at least the above reasons, the combined references fail to teach or suggest the operations recited in claim 1 (involving *first and second group of updates, and further the first group including first and second update categories*) as amended. Therefore, claim 1 is allowable over the cited references under § 103(a).

Amended claim 10 now recites features that include *first and second group of updates, and further the first group including first and second update categories*, which are substantially similar to those of amended claim 1, and is therefore allowable over the cited combination for at least the same reasons.

Claims 2-5 and 11-12 depend from claims 1 and 10, respectively, incorporating their recitations, and are thus allowable over the cited references for at least the same reasons.

Claims 2-5 and 11-12 are further allowable over the cited references for their additional recitations (below), which are not taught or suggested by the cited references:

For example:

- Claim 2 recites: “the computer executable instructions further operative, upon execution, to cause the wireless computing apparatus to obtain the one or more depicted available discretionary updates belonging to the first update category.”
- Claim 3 recites: “the computer executable instructions further operative, upon execution, to cause the wireless computing apparatus to install said obtained discretionary updates belonging to the first update category.”

- Claim 4 recites: “wherein said second group comprises an available discretionary update currently installed on the wireless computing apparatus.”
- Claim 5 recites: “wherein said second group comprises an available discretionary update inapplicable to software currently installed on the wireless computing apparatus.”
- Claim 11 recites: “wherein said determining comprises comparing, by the wireless mobile device, the update catalog to the software currently installed on the wireless mobile device, wherein the software is at least one of an operating system or an application.”
- Claim 12 recites: “obtaining, by the wireless mobile device, said one or more depicted available discretionary updates of the first update category.”

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1569.

If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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By: /Jo Ann Schmidt/

Jo Ann Schmidt
Reg. No.: 62,255

Schwabe, Williamson & Wyatt, P.C.
U.S. Bank Centre
1420 5th Ave. Suite 3400
Seattle, WA 98101